

Topsfield Zoning Board of Appeals
May 27, 2008

Chairman Moriarty called the meeting to order at 8:00 PM. Board members present were Bob Moriarty, Kristin Palace, Tony Penta, and Lisa Stern-Taylor. Roberta Knight, Community Development Coordinator was also present as well as the applicants, their representatives and interested residents. See attendance sheets for specific public hearings.

166 Washington Street: At 8:15 PM Chairman Moriarty called to order the public hearing to consider the application of Gregory & Susan Licata for premises located at 166 Washington Street requesting (1.) a finding pursuant to Article III, Section 3.05 of the Zoning By-Law relative to the replacement of current garage and breezeway with a new two-car garage, family room and expanded dining room area; and (2.) a variance pursuant to Article IV, Section 4.02, Table of Dimensional And Density Regulations for rear set back requirements for a non-conforming lot.

Applicant Greg Licata reviewed the plans with the Board noting that the lot was non-conforming due to lot frontage and lot area. The scope of the building project is to demolish and replace the existing garage and breezeway with a new two-car garage, family room and expanded dining room area. The proposed project is within the side and front setbacks, but would require a variance for a 1.7 foot decrease for the rear setback from 31.5 feet to 29.8 feet.

The Board found pursuant to M.G.L. c. 40A, §10, and after taking into account the objectives of Articles III and IV of the Topsfield Zoning By-Law made the following findings:

- A variance may be granted to permit a de-minimis reduction in the rear setback owing to the soil conditions, shape, or topography of the lot and the placement of the structure thereon which affects this lot but does not affect generally other lots in the zoning district, a literal enforcement of the Topsfield Zoning By-Law would cause substantial hardship to the applicant as it would not be otherwise possible to build the expansion and comply with the requirements of the building code and best construction practices without the increased encroachment into the setback.
- The Board further made a finding that the extension or alteration of the structure will not be substantially more detrimental to the neighborhood than the existing structure.

Robert Moriarty moved that the Board adopt the foregoing findings and grant a finding and variance since the proposed reconstruction will not be substantially more detrimental or objectionable to the neighborhood; seconded by Member Kristin Palace; so voted 4-0.

35 Main Street: At 8:30 PM, Chairman Moriarty called to order the public hearing to consider the application of Silvana and James DiBlasi for premises located at 35 Main Street requesting (1.) a finding pursuant to Article III, Section 3.05 of the Zoning By-Law to convert an existing non-conforming residential structure to professional office use and the demolition of existing barn and connector and replacement thereof for professional office use; (2) a variance pursuant to Article IV, Section 4.02 Table of Dimensional And Density Regulations for side set back requirements for non-conforming lot.

Architect James Fitzgerald represented the applicants James & Silvana Diblasi before the Board and noted that the intent was to convert an existing residential structure to professional office use and demolish the existing barn and connector and replacement thereof for professional office use. The first floor of the house, barn and connector would be used for professional offices open to the general public. The connector would house the handicapped bathrooms for the two structures and the handicapped ramp to enter the joining structures would be located in front of the connector. The second floors would be used for private offices. The Architectural Access Board would require an affidavit to be filed by the owners that asserted to the imposed restriction of private use for the second floors and recorded at the Essex South Registry of Deeds.

The proposed plan would be to demolish the existing barn and use the same footprint for the replacement structure. The existing connector was taken down since the insurance carrier deemed its condition “unsafe” and its removal became a condition for insurance coverage. The foundation remains in tact. The proposed size of the new connector is 400 sq. ft. which is larger than the current dimensions, but the same size as proposed by the former owner in the plan previously approved by the Board. The increase in size is due to the building code requirements for handicapped bathrooms that would be located in this area. The proposed structure would be closer to the side lot line and would require a variance. The total square footage for the proposal including first and second floors is: House – 2,400 sq. ft., connector – 400 sq. ft., and barn - 1,600 sq. ft.

The requested professional office use would require pursuant to the Bylaw 15 parking spaces based on the formula of 1 parking space per 300 sq. ft. of gross office floor space. The density of the lot is not a factor. Mr. Fitzgerald presented a site plan showing the 15 spaces within the front setback and along the right side of the lot. The Board informed the applicant that since there was not notice for site plan, a separate application must be filed for site plan review. However, the Board noted that under Section 4.12 no parking is allowed within the front setback. It was the consensus of the Board that a variance would be required for parking but could be granted due to the location of the building and the topography of the lot since a substantial portion of the remaining lot area consisted of wetlands. These restraints would drive the location of the parking to the front side portion of the lot. The Board voted unanimously to allow the applicant to amend the application to request a variance pursuant to Article IV, Section 4.12, Parking, to allow parking within the 40 feet front setback, and that there was sufficient notice in legal notice description to allow the amendment.

The Board determined that the subject property is located in the Business Village District. The Board noted that preliminary site plan and building design fit within the constraints of the lot with usage limited to professional offices. The Board further found that office use is a permitted use in the Business Village District, but that conversion from residential use to offices would require site plan approval. The reconstruction of the building on a non-conforming lot does require a finding from this Board. The Board determined that it could make such a finding if certain conditions were imposed. Those conditions are : (1.) that the project must be built strictly according to the submitted plans dated May 23, 2008 and approved by the Board on May 26, 2008; (2.) use is limited to professional office use; (3) second floor of the structure which includes the original house and the structure to be built to replace the existing barn is further limited to private office use, and must qualify as non-public accessible space under the rules and regulations of the Massachusetts Architectural Access Board. The Applicant must submit evidence to the Building Inspector of the recording of a document approved by the MAAB so restricting the property before an occupancy certificate may be issued for the new construction portion of the project; (4) no retail use allowed. Based upon the foregoing conditions, the Board further made a finding that the extension or alteration of the structure as proposed will not be substantially more detrimental to the neighborhood than the existing structure.

The Board found, pursuant to M.G.L. c. 40A, §10, and after taking into account the objectives of Articles III and IV of the Topsfield Zoning By-Law made the following findings:

- Owing to the shape, size and the topography of the lot consisting of vegetated wetlands, the placement of the existing structures, and the necessity of construction of connector to comply with handicapped accessibility requirements -- conditions which affect this lot but do not affect generally other lots in the zoning district -- a literal enforcement of the provisions of the Topsfield Zoning By-Law concerning front and side set backs would cause substantial hardship to the applicant.
- The Board further found that relief from the side and front setback requirements may be granted to the applicant to allow the side setback in the location of the connector to be reduced to 11 ft. 3 ½ in. and to allow the required 15 parking spaces to be placed within the 40 feet front setback, provided that the parking area must be set back no less than nineteen (19) feet from the street line, and that the Applicant must restrict at least three (3) spaces to compact car use; and that the grant of said variances would be without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Zoning By-law.

Robert Moriarty moved that the Board adopt the foregoing findings and grant (1.) a finding pursuant to Article III, Section 3.05 of the Zoning By-Law to convert an existing non-conforming residential structure to professional office use and the demolition of existing barn and connector and replacement thereof for professional office

use; (2) a variance pursuant to Article IV, Section 4.02 Table of Dimensional And Density Regulations for side set back requirements for non-conforming lot; and (3.) a variance pursuant to Article IV, Section 4.12, to allow parking within the 40 feet front set back location for the Business District Village; seconded by Member Anthony Penta; so voted; 4-0.

17-19 Main Street: At 9:35 PM, Chairman Moriarty called to order the public hearing to consider the application of RiverSky Realty Partners LLC for premises located at 17-19 Main Street requesting site plan review pursuant to Article IX of the Zoning Bylaw for the construction of a new retail/office building and related site improvements.

Mr. Aftandilian presented the Board with an updated architectural plan and a landscaping plan for the site. He informed the Board that the proposed drainage plan to eliminate water in front of the site had been approved by the Highway Department. The sidewalk would be replaced with curbing and there would be as a result five on-street parking spaces in front of the building. Further, he noted that

- Change in the floor plan for the basement area
- Single front doors with increase in height for windows
- Display windows on both sides of front doors
- Lower front roofline with increase height of first floor windows and doors
- Added decorative molding
- Signage displayed over doors
- Lighting displayed on plan with lights on columns in front, and one recessed light on Central Street.
- Overhang brought around Central Street side

The Board discussed the plans for the rear at length with Mr. Aftandilian and made several recommendations that were incorporated in the final decision.

The Board noted that the site plan and revised architectural building design fit within the constraints of the small lot with usage limited to professional office and retail uses. Further, the Board has included for the record for this decision the site plan dated March 3, 2008, landscape plan approved May 27, 2008 and architectural plans revised per Board's decision dated May 27, 2008. The Board requested the following changes be made to said architectural plans, and made specific notations as follows:

Rear Elevation

- Add decorative circle emblem to center top peak to match front
- Add decorative MDF trim to Central Street side corner
- Add two stairwell windows (2 x 2 lights)
- Eliminate transom over double door service entrance and add peak roof detail

Front and Side Elevations

- Eliminate lights on columns

Building Color and Materials

- Hardie plank siding
- Heather Moss (light green) siding over Mountain Sage (dark green) base
- Mountain Sage on left front exterior below decorative molding
- All trim in white
- Dark gray architectural shingles for roof
- Pavers along street sides per planting plan

The Board further found, after reviewing the site plan and supporting documents that the project met the objectives of Article IX of the Topsfield Zoning By-Law.

Member Kristin Palace moved that the Board adopt the foregoing findings and approve the site plan review pursuant to Article IX of the Zoning Bylaw; seconded by Member Lisa Taylor; so voted; 4-0

7 Grove Street: At this time, Brian Woodland, the developer of “Topsfield Station” presented an update to the Board regarding the status of his project, and specifically addressing the concerns raised in the letter from Eastgate Garden Design dated April 22, 2008. Chairman Moriarty read the letter for the record. Mr. Woodland made verbal assurances to the Board that he fully intends to follow the landscape design plan that was approved by the Board. He has retained the services of Eastgate Garden Design to oversee the installation of the landscaping. He noted that throughout the construction process he has kept in close contact with the architect to insure that the contractor followed the building’s approved design plan as shown to the Board.

The meeting was adjourned at 11:16 PM

Respectively submitted,

Roberta M. Knight
Community Development Coordinator